

Message Text

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ORIGIN EB-11

INFO OCT-01 EUR-25 ADP-00 AID-20 CEA-02 CIAE-00 COME-00

EA-11 FRB-02 INR-10 IO-13 NEA-10 NSAE-00 RSC-01

OPIC-12 TRSE-00 CIEP-02 LAB-06 SIL-01 OMB-01 L-03

PA-03 PRS-01 USIA-15 TAR-02 H-03 NSC-10 SS-15 STR-08

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DRAFTED BY EB/IFD/OMA:WBMILAM

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APPROVED BY EB/IFD/OMA - MR. KRIZAY

TREASURY - MR. PATRICK

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FM SECSTATE WASHDC

TO AMEMBASSY DUBLIN

INFO USMISSION EC BRUSSELS

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E.O. 11652:GDS

TAGS: EFIN

SUBJECT: U.S. TAX PROPOSALS

REF: DUBLIN 937

1. ADMINISTRATION HAS NOT PROPOSED ANY AMENDMENTS TO ITS TAX PROPOSALS OF APRIL 9 (ACTUALLY SUBMITTED APRIL 30). HOWEVER, TREASURY DEPARTMENT ISSUED PRESS RELEASE ON JUNE 11, WHICH EXPLAINS ADMINISTRATION PROPOSALS OF APRIL 9 IN GREATER DETAIL, RESPONDS TO INQUIRIES ABOUT THE APPLICATION OF THE PROPOSALS, AND OUTLINES TREASURY VIEWS AS TO HOW STANDARDS FOR TAX HOLIDAY MIGHT BE EXPRESSED IN LEGISLATION. SWAN MAY HAVE CONFUSED THIS RELEASE WITH AN AMENDMENT.

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2. IN SUMMARY, TREASURY PRESS RELEASE MADE FOLLOWING POINTS:

A. INCENTIVES WHICH COULD BE CONSIDERED AS MAJOR TAX INDUCEMENTS TO INVESTMENT INCLUDE:

(I) EXEMPTION FROM INCOME TAX - A PERIOD OF EXEMPTION MIGHT BE APPROPRIATE, AND IT MIGHT COMMENCE AT THE TIME THE FACILITY BEGINS OPERATION OR FROM THE TIME CONSTRUCTION BEGINS.

(II) RATE REDUCTION OR PARTIAL EXEMPTION - MORE THAN A 30 PERCENT REDUCTION IS THE SUGGESTED CRITERIA.

(III) CAPITAL COST RECOVERY INCENTIVES - SUBSTANTIALLY GREATER THAN U.S. COST RECOVERY (INCLUDING INVESTMENT CREDIT) COMPUTED UNDER ACCELERATED DEPRECIATION RULES.

(IV) COST OF PROPERTY GRANTS.

B. INCENTIVES NOT CONSIDERED COVERED BY THE ADMINISTRATION PROPOSAL:

(I) LOCAL INCENTIVES - TAX CONCESSIONS, OTHER THAN GRANTS, BY NON-NATIONAL GOVERNMENT AUTHORITIES OR ENTITIES WHERE SUCH TAXES MAKE UP LESS THAN 20-30 PERCENT OF COMBINED INCOME TAXES.

(II) PUBLIC FACILITIES PROVIDED BY A PUBLIC BODY.

(III) TAX CONCESSIONS OTHER THAN INCOME TAXES.

C. TREATY EXCEPTIONS - CONTINGENT ON SATISFACTORY BILATERAL TAX, TRADE AND ECONOMIC RELATIONS WITH THE FOREIGN COUNTRY WHICH WOULD WARRANT THE EXTENSION OF AN INCENTIVE. TREASURY DOES NOT BELIEVE THAT THE PROPOSED RULES SHOULD BE APPLIED TO SITUATIONS WHERE THERE IS NO REASONABLE POSSIBILITY THAT U.S. EXPORTS CAN REPLACE FOREIGN MANUFACTURING OR PROCESSING. THERE ARE TWO ALTERNATIVE METHODS WHICH MIGHT BE PROVIDED IN STATUTES TO ALLOW TIME TO NEGOTIATE TREATIES IN APPROPRIATE CASES. LIMITED OFFICIAL USE

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(I) EARNINGS WOULD NOT BE TAXABLE FOR A CERTAIN PERIOD (E.G. 5 YEARS) AFTER WHICH THEY MIGHT BE EXEMPTED BY TREATY OR, IF THEY MET CERTAIN CRITERIA DESCRIBED BELOW, BY EXECUTIVE ORDER.

(II) THE PROVISIONS WOULD BE EFFECTIVE IMMEDIATELY BUT CERTAIN CATEGORIES OF OPERATIONS WOULD BE

EXEMPT FOR A PERIOD (E.G. 5 YEARS) AND NEW INVESTMENTS OF THESE TYPES WOULD BE EXEMPT ONLY IF COVERED BY TREATIES OR AN EXECUTIVE ORDER.

THE SUGGESTED EXCEPTIONS UNDER BOTH OF THE ALTERNATIVES ARE FOR COMPANIES LOCATING ABROAD BECAUSE: RAW MATERIALS REQUIREMENTS, LOCAL LAW REQUIRES IT, TRANSPORTATION COSTS ARE EXCESSIVE, TARIFF LEVELS MAKE U.S. PROCESSING UNECONOMICAL.

D. WAIVERS - FOREIGN TAX INCENTIVES CAN BE WAIVED BY SUBSIDIARIES OF U.S. FIRMS TO AVOID THE "TAX HOLIDAY" STATUS.

E. QUARANTINE - EARNINGS FROM NEW INVESTMENT BENEFITTING FROM TAX INCENTIVES DESCRIBED UNDER A ABOVE CAN BE QUARANTINED FROM EARNINGS FROM EXISTING INVESTMENT.

3. DEPARTMENT POUCHING COPY TREASURY PRESS RELEASE TO EMBASSY.

4. WAYS AND MEANS COMMITTEE STAFF IN PROCESS OF DRAFTING DIFFERENT LEGISLATION TO REDRESS PROBLEMS OF TAX HOLIDAYS AND RUNAWAY PLANTS. ADMINISTRATION HAS NOT YET RECEIVED WRITTEN VERSIONS OF COMMITTEE STAFF'S PROPOSALS, BUT WE ARE TOLD THAT INVOLVES AS A BASIC CONSIDERATION CURRENT TAXATION ON 50 PERCENT OF FOREIGN SUBSIDIARY EARNINGS ABROAD REGARDLESS OF WHETHER PAID IN DIVIDENDS. DRAFT PROPOSALS ALSO REPORTEDLY CONTAIN PROVISION THAT FOREIGN TAXES PAID TO ANY JURISDICTION ARE ALLOCATED PRO RATA TO ALL FOREIGN EARNINGS, WHICH WOULD AFFECT TAX CREDIT PROVISIONS IN EXISTING LAW.

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5. IT IS STILL TOO EARLY TO TELL HOW BILL LIKELY TO EMERGE FROM WAYS AND MEANS COMMITTEE, OR WHEN, AND WHAT ITS PROSPECTS ARE FOR PASSAGE BY CONGRESS. ROGERS

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